

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

TYLER JOHN DESMOND,

Defendant.

Case No. CR22-188 TL

ORDER REVOKING TEMPORARY
DETENTION AND ORDER OF
RELEASE

On November 10, 2022, Mr. Desmond appeared for an initial appearance before the undersigned United States Magistrate Judge. The government did not move for detention of Mr. Desmond. Mr. Desmond was released on an appearance bond that included restrictions that he not use drugs or alcohol, submit to drug testing, and not have access to an internet-capable device. (Dkt. ## 8-10.) On February 8, 2023, Pretrial Services filed a Petition for Summons (dkt. # 17), alleging Mr. Desmond violated the terms and conditions of his appearance bond as follows:

- (1) Using methamphetamine, in violation of the special condition, on or about December 12, 2022, December 27, 2022, and January 17, 2023.
- (2) Failing to report for drug testing, in violation of the special condition, on January 12, 2023.

1 On February 28, 2023, Pretrial Services filed a Report of Supplemental Violations (dkt.
2 # 21), alleging Mr. Desmond violated the terms and conditions of his appearance bond as
3 follows:

4 (3) Using methamphetamine, in violation of the special condition, on or about January
5 30, 2023, and February 7, 2023.

6 On February 28, 2023, Mr. Desmond appeared at a bond revocation hearing before the
7 undersigned. (Dkt. # 23.) He was advised of his rights in connection with the Petition for
8 Summons and Report of Supplemental Violations. He was advised of bond violation allegations
9 1-3. Mr. Desmond admitted to failing to abide by the terms of his bond, as set forth in bond
10 violation allegations 1-3. The Court, pursuant to 18 U.S.C. § 3148, set a bond revocation/status
11 hearing for March 21, 2023. On March 17, 2023, Pretrial Services filed a Report of
12 Supplemental Violations (dkt. # 27), alleging Mr. Desmond violated the terms and conditions of
13 his appearance status/ bond as follows:

14 (4) Using methamphetamine, in violation of the special condition, on or about February
15 14, 2023, and February 22, 2023.

16 (5) Possessing an internet-capable device, in violation of the special condition, on March
17 9, 2023.¹

18 On March 21, 2023, Mr. Desmond appeared at the bond revocation/status hearing. (Dkt.
19 # 29.) He was advised of his rights in connection with the Report of Supplemental Violations. He
20 was advised of bond violation allegations 4-5. Mr. Desmond admitted to failing to abide by the
21 terms of his bond, as set forth in bond violation allegation 4. Mr. Desmond denied bond

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23 ¹ Allegation 5 was amended on April 14, 2023, to “accessing the internet through the use of a cellular
phone device on or before March 9, 2023.” (Dkt. #36.)

1 allegation 5. The Court ordered Mr. Desmond temporarily detained and, pursuant to 18 U.S.C.
2 § 3148, set an evidentiary bond revocation hearing for April 5, 2023. (Dkt. ## 29-30.)

3 On April 4, 2023, U.S. Probation filed a report of supplemental violations (dkt. # 31),
4 alleging the following additional violations:

5 (6) Use of methamphetamine on or about February 28, 2023, March 3, 2023 and March
6 7, 2023; and

7 (7) Committing the crime of False Statement in violation of 18 U.S.C. § 1001(a)(2).

8 On April 5, 2023, Mr. Desmond appeared at the evidentiary bond revocation hearing.
9 (Dkt. # 34.) He was advised of his rights in connection with the Petition for Summons and
10 Report of Supplemental Violations. He was advised of the bond violation allegations. After
11 hearing testimony, the court found violation 7 was established. The court reserved ruling on
12 allegation 5 and set out evidentiary hearings on allegation 6. The Court, pursuant to 18 U.S.C.
13 § 3148, set an evidentiary bond revocation hearing for April 18, 2023. On April 17, 2023, the
14 evidentiary bond revocation hearing was reset for May 8, 2023.

15 On May 8, 2023, Mr. Desmond appeared at the bond revocation hearing. (Dkt. # 39.) He
16 was advised of his rights in connection with the Petition for Summons and Report of
17 Supplemental Violations. He was advised of the bond violation allegations. Mr. Desmond
18 admitted to violation 4 and denied allegation 5. The court found violation 4 established and set
19 out the evidentiary hearing on allegation 5. The government also applied for and was granted a
20 search warrant for the Google records related to the Google account connected with Mr.
21 Desmond's Google Pixel phone. The Court set an evidentiary bond revocation hearing for May
22 22, 2023, pursuant to 18 U.S.C. § 3148. That hearing was rescheduled to June 7, 2023.

1 On June 7, 2023, Mr. Desmond appeared at the evidentiary bond revocation hearing.
2 (Dkt. # 42.) He was advised of his rights in connection with the Petition for Summons and
3 Report of Supplemental Violations. He was advised of the bond violation allegations. Mr.
4 Desmond admitted to violation 5 and 6. Counsel for the defendant addressed the character of the
5 evidence regarding violation 5. *Inter alia*, counsel argued that the evidence obtained from the
6 search warrant included searches from Mr. Desmond's account after Mr. Desmond's temporary
7 detention on March 21, 2023. Counsel also argued the records indicated use from multiple IP
8 addresses and multiple devices, indicating not all the use was Mr. Desmond's. Counsel admitted
9 some of the usage was Mr. Desmond's, but argued none of Mr. Desmond's usage was nefarious.
10 Counsel also argued that the evidence indicates Mr. Desmond was confused as to the "no internet
11 use" condition as Mr. Desmond emailed the court's location monitoring specialist directly asking
12 permission to have lunch with his mother at an Olive Garden. Evidence was also presented that
13 Mr. Desmond may have been communicating via email with attorneys. Parties agreed to
14 continue the matter to allow time for the Government to get copies of the privileged emails sent
15 from or received by Mr. Desmond's email account and to review the location monitoring
16 specialist's response to Mr. Desmond's email. The matter was continued to June 13, 2023.

17 On June 13, 2023, Mr. Desmond appeared at the bond revocation hearing. (Dkt. # 45.).
18 The court heard from the parties regarding Mr. Desmond's internet use. The Government
19 directed the court to their Second Supplemental Memorandum on Pretrial Violations. (Dkt. #43.)
20 Mr. Desmond's counsel argued he should be released to House of Mercy, stating no resident of
21 House of Mercy has re-offended while staying there. Counsel noted that the email evidence
22 showed that multiple devices were logging into Mr. Desmond's accounts, indicating other users,
23 that Mr. Desmond's email to the location monitoring specialists illustrated his confusion

1 regarding the condition, and that any of the internet use that did belong to Mr. Desmond himself
2 was harmless.

3 The Court, having reviewed the Government's Supplemental Memorandum and the
4 declaration filed by Mr. Desmond's counsel regarding the emails sent from Mr. Desmond's
5 email address, and heard the argument of counsel, finds as follows:

- 6 1. The Government did not move for detention at the initial appearance and
7 did not take the position that Mr. Desmond was a flight risk or a danger to
8 the community.
- 9 2. The Government now argues that Mr. Desmond is a danger to the
10 community because he was untruthful to the court and to pretrial services
11 and therefore cannot be trusted to follow the court's appearance bond
12 conditions set to protect the alleged victims.
- 13 3. The court agrees that Mr. Desmond's failure to abide by conditions
14 presents a danger to the community.
- 15 4. The court finds that the danger to the community can be mitigated with
16 appearance bond conditions that Mr. Desmond be released to House of
17 Mercy on home detention and location monitoring and that he submit to
18 computer monitoring, as well as other conditions.

19 For these reasons and those stated on the record, the court revokes temporary detention and
20 releases Mr. Desmond on conditions as set forth in the appearance bond (dkt. # 47).

21 Dated this 13th day of June, 2023.

22 
23 MICHELLE L. PETERSON
United States Magistrate Judge